

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**DARUS ZEHRBACH,**

**Petitioner,**

**v.**

**CIVIL ACTION NO. 1:05CV79  
CRIMINAL ACTION NO. 1:00CR33  
(BROADWATER)**

**UNITED STATES OF AMERICA,**

**Respondent.**

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge John J. Kaull (Doc. No. 20), dated March 23, 2006, and petitioner's corresponding objections (Doc. No. 20), filed April 6, 2006. Pursuant to 28 U.S.C. § 636(b)(1), this Court conducted a de novo review of the above. As a result, the Court is of the opinion that the Magistrate Judge's Report and Recommendation (**Doc. No. 19**) should be, and is hereby, **ORDERED** adopted.

The Court further **ORDERS**

- 1) that the petitioner's Motion for Judgment on the Pleadings (**Doc. 7**), Second Motion for Judgment of the Pleadings (**Doc. No. 9**), and Third Motion for Judgment on the Pleadings (**Doc. No. 14**) are **DENIED**;
- 2) that the petitioner's Motion for Summary Judgment (**Doc. No. 8**), Second Motion for Partial Summary Judgment (**Doc. No. 10**), and Motion for Summary Judgment (**Doc. No. 16**) are **DENIED**;

- 3) that the petitioner's Motion to Amend/Correct Illegal Sentence (**Doc. No. 17**) is DENIED; and
- 4) that petitioner's § 2255 motion (**Doc. No. 1**), **DENIED and DISMISSED WITH PREJUDICE** based on the reasons set forth in the Magistrate Judge's Report and Recommendation. It is further **ORDERED** that this action be and is hereby **STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

**DATED** this 20<sup>th</sup> day of October, 2006.

  
**W. CRAIG BROADWATER**  
**UNITED STATES DISTRICT JUDGE**